

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

JANE DOE, et al.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil Action No. 05-120-JJF
	:	
INDIAN RIVER SCHOOL DISTRICT,	:	
et al.,	:	
	:	
Defendants.	:	

**NOTICE OF MOTION TO STRIKE EXHIBIT A AND FOOTNOTE 13  
TO DEFENDANTS' OPENING BRIEF IN SUPPORT OF  
MOTION FOR SUMMARY JUDGMENT**

Plaintiffs, by and through their undersigned attorneys, hereby provide notice of the Motion To Strike Exhibit A And Footnote 13 To Defendants' Opening Brief In Support Of Motion For Summary Judgment that was filed on April 18, 2008 (the "Motion").

1. Plaintiffs filed the Motion on April 18, 2008, seeking that a declaration from Charles H. Mitchell (the "Mitchell Declaration"), an individual not previously identified in Defendants' disclosures or 30(b)(6) designations, be struck from the record. Defendants submitted the Mitchell Declaration as Exhibit A to their brief despite never having made the declaration or its author available for discovery.

2. Plaintiffs also seek to strike Footnote 13 to Defendants' brief, by which Defendants' attempt to incorporate the previously-filed brief of Defendant Reginald Helms into their brief by reference.

3. Pursuant to the Court's standing order issued February 1, 2008, Plaintiffs request a hearing on the next available motion day, which is May 9, 2008.

4. Because the Motion relates to the Defendants' opening brief in support of motion for summary judgment, Plaintiffs would be prejudiced in their own briefing if Defendants were permitted to rely upon Exhibit A and Footnote 13 to Defendants' Opening Brief In Support Of Motion For Summary Judgment. Since the scheduling order provides a deadline of answering briefs on case-dispositive motions on May 8, 2008, and thus before the next available Motion Day, Plaintiffs request that the hearing on the Motion be waived, and request that the Court consider the Motion on the papers submitted.

WHEREFORE, Plaintiffs respectfully request that the Court waive the hearing on Plaintiffs' Motion and enter an order striking Exhibit A and Footnote 13.

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